

boils down to, though, is this: Our first obligation is to ensure the security of the United States.

One of the pillars of our security is our nuclear deterrent. It must be safe and it must be workable. It must be relevant to the new threats we face. If we are precluded by this amendment from even thinking about those things, we have done a great disservice to our constituents. At a time when we are not at peace but at war with terrorists around the globe and at a time when we are not the only nuclear power, but there are all kinds of countries that we are, frankly, quite concerned about developing nuclear weapons, countries such as North Korea and Iran and others that I could mention, that is exactly the wrong time to be sending the signal this amendment would send; that we are going to stick our head in the sand; we are not going to support scientists thinking about these issues and even potentially recommending to us the development of some kind of new 21st century weapons that could better protect our troops, better protect the American homeland, and better defeat our enemies who would do us harm.

I can't think of any reason why Americans would want to support that kind of a policy. Remember, we have not been successful in deterring other nations by this unilateral embargo on our own testing and development. They have gone right ahead with their programs, some of the worst countries in the world. The "axis of evil," North Korea and Iran, has gone right ahead with their programs. So what makes us think that by the United States continuing this see-no-evil unilateral moratorium that the great moral situation of the United States will prevent these countries from moving right along with their projects? History does not support that view.

Better that we have peace through strength. And strength is the strength of the United States in terms of its commitment, in terms of its scientific capability, and in terms of its willpower to think about what we are going to need to defend America in the future.

I hope my colleagues will defeat this amendment as they have before.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, by prior unanimous consent agreement, it is now the opportunity for Senator BYRD to address the body for 1 hour. I know Senator LINCOLN had one brief statement she wanted to make. If there is no objection, I ask unanimous consent that Senator LINCOLN be permitted to make her remarks at this time, and perhaps the clerk could notify Senator BYRD that his time has arrived.

The PRESIDING OFFICER. Without objection, the Senator from Arkansas is recognized.

Mrs. LINCOLN. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mrs. LINCOLN are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

#### FCC VOTE ON MEDIA OWNERSHIP RULES

Mr. BYRD. Madam President, in recent weeks, there has been a great deal of discussion about a June 2 vote by the Federal Communications Commission to lift the lid on media ownership rules. Under the new regulations, a broadcast network can own and operate local television stations that reach as much as 45 percent of the Nation.

What does that mean? According to the Consumer Federation of America, television and newspaper mergers will be allowed in about 200 markets where approximately 98 percent of the American people live. TV duopolies, where one owner owns two television stations in the same market, and perhaps even triopolies, where one owner controls three stations in one market, will be allowed in more than 160 markets, covering better than 95 percent of the population.

This is a dangerous vote by the FCC. I fear that it will strangle voices that disagree with corporate interests at virtually every level of news and commentary.

Local news media represent a community's window on the school board, the city council, the county commission. The local media, more than any other resource, educates people about the issues that directly affect their lives. But these new rules, as approved by the FCC, threaten that role by allowing one person or one corporate interest to control such a significant level of discourse and debate. News and information may be forced to fit into a corporate plan or personal agenda.

I have been in Congress for more than 50 years. If there is one lesson that I have learned, it is that the media and politicians share at least one common bond: both rely on public trust for credibility. To earn that trust, the public must know that it can rely on the honesty and integrity of the people in critical decisionmaking positions. Credibility is jeopardized when questions about the veracity of reports are raised or when a news organization is seen more as a biased promoter of opinion rather than as a fair arbiter of fact.

In October 1958, a pioneer of the broadcast industry took the podium at the Mayfair Hotel in Chicago to address his colleagues at the annual convention of the Radio-Television News Directors Association. On that night, when reporters, news directors, sponsors, and network executives gathered together to honor excellence in their industry, Edward R. Murrow called it his duty to speak about what was happening in the radio and television industry.

Mr. Murrow, one of the most honored and respected journalists in our Nation's history, criticized his colleagues for failing in their obligation to the people of this country.

"Our history will be what we make it," Murrow said. "If there are any historians about fifty or a hundred years from now, and there should be preserved the kinescopes for one week of all three networks, they will find there evidence of decadence, escapism, and insulation from the realities of the world in which we live."

He continued: "One of the basic troubles with radio and television news is that both instruments have grown up as an incompatible combination of show business, advertising, and news. . . . The top management of the networks, with a few notable exceptions, has been trained in advertising, research, or show business. By the nature of the corporate structure, they also make the final and crucial decisions having to do with news and public affairs. Frequently, they have neither the time nor the competence to do this."

Here we are, almost 45 years later. What would Mr. Murrow think of today's media? Would he consider the FCC vote a threat to a strong, independent media? The news and broadcast industry has had time to mature, to evolve into what Mr. Murrow hoped would be a responsible venture that exalts the importance of ideas, and not simply panders to the lowest virtues in the human race. Alas, I believe Mr. Murrow would be disappointed in what he would see today.

Instead of exalting ideas, mass media today seem more often than not to worship at the altar of sex, blood, and scandal. Instead of pursuing a higher cause and taking the time to educate the public about the issues and events affecting our everyday lives, we read and hear about things that serve to titillate or divide us.

There are a few voices in the media that attempt to educate, to inform, rather than to incite. But too often these men and women are sent packing because their corporate bosses fear low ratings and a commercial backlash.

This spring, for example, the General Electric-owned cable network MSNBC, fired Phil Donahue from his evening talk show. Mr. Donahue was one of the few voices in the news-talk genre that did not worship at the altar of the salacious story. He did not titillate. He spoke frankly, sharing his beliefs and welcoming those who saw otherwise. And when confronted with a person offering differing opinion, Phil Donahue did not insult or bully that person. Instead, he debated calmly and fairly, and treated his guests with courtesy and respect.

Mr. Donahue was opposed to war in Iraq. He made his views known. He debated, he argued, and he persuaded. But at least one insider at the MSNBC network said that Phil Donahue was fired because the corporate heads at

the network worried about having a critic of President Bush in its programming schedule.

They worried: What would sponsors think? How would they react? Instead of defending constitutional freedom of the press, MSNBC, it appears, caved in to the business bottom line. Instead of a critical voice, the network has filled the time with yet another carbon copy of the typical current day talk show hosts: slanted, biased, and arrogant.

Is that what the future holds for news outlets? MSNBC seems to be following the examples set by News Corporation, the corporate umbrella of Fox News channel. Rupert Murdoch, the chairman and CEO of News Corporation, has used his influence and his money to buy significant influence over the country's politics and priorities. Coincidence? Not likely. In fact, one former News Corporation executive stated in a profile on Mr. Murdoch earlier this year that:

He hungered for the kind of influence in the United States that he had in England and Australia. Part of our political strategy here was the New York Post and the creation of Fox News and The Weekly Standard.

Political strategy? What happened to journalistic strategy? Are we doomed to more politics than journalism as a result of the June 2 FCC vote? In fact, the complete list of holdings of News Corporation gives one pause.

News Corporation is quickly growing into a media empire. Its main holdings are the Fox broadcast networks and the cable networks Fox News Channel, Fox Sports, FX, and others, 20th Century Fox studios, 35 local American television stations, the New York Post, plus the Times and the Sun of London, the conservative magazine the Weekly Standard, the publishing house HarperCollins, the Sky satellite system in England, and the Star satellite system in Asia, and various publications in Mr. Murdoch's native Australia.

In addition, News Corporation is seeking Federal approval to buy a one-third share in DirecTV, the leading satellite broadcast system in North America. Should that purchase be approved, News Corporation would then control a worldwide satellite system beyond any other company's reach.

Yet the Federal Communications Commission, the people's watchdog on broadcast fairness and responsibility, would rubberstamp such mergers and monopolies rather than examine them with a skeptical eye. The FCC is supposed to be a watchdog, not a lap dog.

The media enjoy a rare position in our society. Reporters and editors are supposed to responsibly detail events and activities, explain ideas and innovations to a public who might not, on first hearing, completely understand the issue. But complex ideas, such as peace in the Middle East or even the doctrine of preemptive strikes on which the war in Iraq was based, are pared down into short broadcast packages lasting 2 minutes, perhaps.

The focus is on sound bites rather than on sound information. Instead of

an intelligent discussion, we hear a constant barrage of commentary that is supposed to pass for news judgment. We listen to television show hosts call Members of Congress the "lie choir" because they question administration policy. Without foundation, in fact, allegations of dishonesty by Senators are tossed around and, although baseless, they have the air of fact because they are repeated time and time again by pseudo news hosts. This so-called unbiased media is nothing more than partisan opinion covered in a thin veneer of news and information.

I do not question the media's right to report on stories and to have talk shows which express opinion. That right is clearly laid out in the first amendment of the Bill of Rights:

Congress shall make no law . . . abridging the freedom of speech, or of the press.

This amendment, ratified in December 1791, gives broad power to the press. Our constitutional Framers understood that the Republic would not function properly if the press were not allowed to operate freely and without intervention from Government.

However, the media industry also must recognize the responsibility that it has to the public which relies so heavily on the information provided in daily reports. The free press must be a fair press.

Through the first amendment, our Framers guaranteed a free press. We, the people, demand a fair press, one that meets its responsibilities and our expectations. A free press cannot exist without the trust of the public it serves. To win and maintain that trust, the press must be unbiased in its work.

Unfortunately, expectations may be too high. News organizations often rely solely on the word of those speaking from podiums of power. They take information as gospel truth without, many times, checking the facts or verifying the information.

At a time when standards should be strong, the news industry seems very happy to follow the day's latest scandal. It does not hesitate to bring to bear the full light of public scorn when there is the slightest suggestion of a misstep by a person in the public light. However, when that same light is turned squarely on the media, there is little enthusiasm for the intensity.

Edward R. Murrow experienced this firsthand. While those in attendance at the dinner in Chicago in 1958 applauded Mr. Murrow after he finished his speech, the response away from the podium, away from Mr. Murrow, was quite different. He was castigated by network executives who accused him of biting the hand that fed him.

No less than William Paley, the president of CBS and a good friend of Murrow's, was said to be furious after Murrow criticized the broadcast industry. He saw it as a breach of loyalty. But Edward Murrow believed he carried a greater burden of loyalty to his audience. He saw his Chicago remarks as his faithful duty to the people who lis-

tened to him every night, who relied on him to give them the information they needed to know.

I think Edward Murrow would be ashamed of much of the news programming on television today. Like so much of the American public, he would not believe that the media, on the whole, are fulfilling the responsibility to educate and inform.

According to a USA Today/CNN/Gallup poll from this past May, only 36 percent of the American people believe that news organizations get the facts straight.

What can improve the public confidence in the media?

Perhaps the media in Minnesota have a good start. In 1970, University of Minnesota Professor Ed Gerald helped to set up the Minnesota News Council, believing then that:

To the common man, it seems that journalists, at will, can make heroes or scoundrels out of any of us.

Professor Gerald recognized the sheer power and influence of the media. He also knew that, as much as a free press is crucial to the Republic, a fair press is needed to ensure the public trust.

The Minnesota News Council provides an avenue for the public to hold media outlets accountable for the reports they air or print. Outside of a courtroom and free of charge to either party, the News Council, made up of reasonable, qualified people from within the media and outside of it, comes together to decide whether a report or story is fairly produced or whether it is distorted, untrue, or dishonest. The State of Washington has a similar news council. Many nations, including the United Kingdom, Australia, and Canada, have news councils.

At least one noted journalist has long supported the concept of a news council, if not on a national level then on State or regional levels. For many years, Mike Wallace, CBS News Correspondent and co-editor of 60 Minutes, has believed that the concept of a news council could be an important tool in building the public trust in the media. Mr. Wallace, in a 1996 lecture at the Freedom Forum's Media Studies Center, said, he is "convinced that more state news councils, regional news councils, and/or a renewed national news council could strike a blow for a better public understanding in a time of skepticism about us, of who we are and what it is we do." Since those remarks, Mr. Wallace has continued to urge his colleagues to support the news council idea, but the resistance, especially from national media organizations, is profound.

What is wrong with this approach? A news council is not a court of law; rather it is a forum where the public and the news media can engage each other in examining standards of fairness. It is not a radical idea, but a commonsense approach. As the Minnesota News Council describes the concept, in their various forms, news councils are designed to promote fairness in the

news media by giving members of the public who feel damaged by a news story an opportunity to hold the news organization accountable. What is wrong with allowing the public, which has such a poor view of the media, to take part in such an endeavor? This type of public dialogue can lead to a better understanding of the media industry and its role in society by that society, as well as a stronger foundation for more accurate, more responsible dissemination of news.

Solid journalism is also a way to improve the public's view of the media. It restores that sense of credibility that is threatened when we read about reporters who have published stories without any factual background. It would help to reaffirm independent voices, even if those voices run counter to the opinions of the corporate management.

On television and in print, large media conglomerates already control the vast majority of what Americans see, read, and hear. A grand total of five—five—media companies today control 75 percent of prime time programming. Outlets such as cable and the Internet, which could have served to check corporate media conglomeration power, have instead followed the old adage, "if you can't beat 'em, join 'em." Thus, today these same 5 companies control 90 percent of the top 50 channels on cable. Similarly on the Internet, existing newspapers and TV networks dominate the most popular sites for news and information. Technology may have increased the number of media outlets, but it has not stopped big media from further extending its reach.

Former Washington Post assistant managing editor Ben Bagdikian has sketched out the growing concentration of media ownership. In 1983, when his book, "The Media Monopoly," was first published, Mr. Bagdikian reported that "50 corporations dominated most of every mass medium." But, with each new edition of the book, that number shrinks and shrinks and shrinks: 29 media corporations in 1987, 23 in 1990, 14 in 1992, and 10 in 1997. The sixth edition, published in 2000, documented that just six—six—corporations supply most of America's media content. Bagdikian wrote:

It is the overwhelming collective power of these firms, with their corporate interlocks and unified cultural and political values, that raises troubling questions about the individual's role in the American democracy.

The June 2 vote by the Federal Communications Commission threatens to expand the influence of these few corporations even further, stretching their hands around a larger number of local television and radio stations, scarfing up newspapers and Internet news outlets.

This is an opinion shared by consumer advocates, media watchdog groups, and various organizations representing the spectrum of political and societal views in the United States,

from the National Rifle Association to the National Organization for Women, from the Catholic Conference of Bishops to the Leadership Conference on Civil Rights. The Parents Television Council, Common Cause, the National Association of Black-Owned Broadcasters, the National Association of Hispanic Journalists, the Writers Guild, and the Association of Christian Schools, all of these groups questioned the wisdom of even greater media consolidation.

Tens of thousands of Americans have expressed their opposition to the FCC rule. In fact, three-quarters of a million people contacted the FCC about this new consolidation, and, according to FCC Commissioner Jonathan Adelstein, 99.9 percent of them opposed further media consolidation.

In testimony before the Senate Committee on Commerce, Science, and Transportation, Commissioner Adelstein was blunt.

[T]he FCC approved the most sweeping and destructive rollback of consumer protection rules in the history of American broadcasting. I'm afraid democracy was not well served by Monday's decision. Allowing fewer media outlets to control what Americans see, hear and read can only give Americans less information to use in making up their own minds about the key issues they face.

The decision will diminish the diversity of voices heard over the public airwaves, which can only diminish the civil discourse and the quality of our society's intellectual, cultural and political life. It will diminish the coverage of local voices and local issues as media giants gobble up local outlets and nationalize the stories they broadcast.

In the end, our new rules will simply make it easier for existing media giants to acquire more outlets and fortify their already massive market power. As media conglomerates go on buying sprees, they will accumulate enormous debt that will force them to chase the bottom dollar ahead of all else. This is likely to result in more sensationalism, more crassness, more violence, and even less serious coverage of the news and local events.

Recently, there have been obstacles thrown in the way of the FCC's Mack truck of a rule. The Senate Appropriations Committee has blocked the implementation of the new policy. The unanimous committee approval of the fiscal year 2004 Commerce, Justice, State, and Judiciary Appropriations bill was a strong endorsement of media diversity. The committee's action follows the House of Representatives vote on July 23, 400–21, to pass the fiscal year 2004 Commerce-Justice-State Appropriations bill. As part of that legislation, the House also would prohibit the Federal Communications Commission from implementing this policy allowing for media consolidation.

But the Congress is not the only branch of Government involved in this issue. The United States Court of Appeals for the Third Circuit issued a surprise order on September 3, blocking the Federal Communications Commission from imposing its new rules just

one day before those rules were slated to take effect.

Given the magnitude of this matter and the public's interest in reaching the proper resolution, a stay is warranted pending thorough and efficient judicial review.

The court concluded in the case.

Indeed, it is my hope that, with such growing opposition, the administration and the Federal Communications Commission will abandon such an ill-advised policy.

I have often said that as long as there is a forum in which questions can be asked by men and women who do not stand in awe of a chief executive and one can speak as long as one's feet will allow one to stand, the liberties of the American people will be secure. That forum is this Senate. But the same can be said of the news media—the newspapers, radio stations, television stations, and other outlets that provide information that is important to the lives of all Americans. That freedom, that unbiased coverage, is a key, a foundation stone of this Republic. For, without it, the American people can be led to disaster without so much as a whisper. Their freedoms can be trampled; their rights can be subverted.

In his speech in Chicago in 1958, Mr. Murrow offered a challenge to his colleagues.

Just once in a while, let us exalt the importance of ideas. Let us dream to the extent of saying that, on a given Sunday night, the time . . . occupied by Ed Sullivan is given over to a . . . survey of the state of American education [or] the time normally used by Steve Allen is devoted to a thoroughgoing study of American policy in the Middle East.

While Ed Sullivan and Steve Allen are not with us anymore, the need for responsibility that Mr. Murrow called for among his colleagues in the news industry clearly still remains with us today.

Madam President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

#### PARTIAL-BIRTH ABORTION BAN ACT OF 2003

Mr. McCONNELL. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 3) to prohibit the procedure commonly known as partial-birth abortion.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the House insist upon its amendment to the bill (S. 3) entitled "An Act to prohibit the procedure commonly known as partial-birth abortion", and ask a